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4 AAC 06.775(a) is amended to read:

(a) When administering to students with disabilities the statewide assessments under 4 AAC 06.710 **and 4 AAC 06.717**, a district shall follow the requirements of this section and the department's *Participation Guidelines for Alaska Students in State Assessments*, dated **December 2014** [JUNE 2011], adopted by reference. [HOWEVER, WHEN ADMINISTERING THE COLLEGE AND WORK PREPAREDNESS ASSESSMENT DESCRIBED IN 4 AAC 06.717, A DISTRICT SHALL FOLLOW THE REQUIREMENTS OF THIS SECTION AND THE DEPARTMENT'S *ALASKA SUPPLEMENT FOR WORKKEYS ASSESSMENT*, DATED JANUARY 2012, ADOPTED BY REFERENCE.]

(Eff. 12/19/2002, Register 164; am 9/17/2004, Register 171; am 11/10/2005, Register 176; am 10/18/2007, Register 184; am 11/10/2007, Register 184; am 9/27/2008, Register 187; am 6/11/2010, Register 194; am 10/3/2011, Register 200; am 4/20/2012, Register 202; am ____/____/____, Register ____; am ____/____/____, Register ____)

Authority: AS 14.03.075 AS 14.07.060 **AS 14.07.165**
AS 14.07.020

4 AAC 06 is amended by adding a new section to read:

4 AAC 06.721. College and career readiness assessment waivers. (a) A governing body shall grant a waiver from participation in the college and career readiness assessments under 4 AAC 06.717 if a student

(1) submits to the governing body on a form prescribed by the department a complete waiver request;

(2) demonstrates to the satisfaction of the governing body that the student has met all other state and governing body requirements for graduation; and

(3) demonstrates to the satisfaction of the governing body that the student has

(A) entered the public school system late as provided in

4 AAC 06.722; or

(B) a rare or unusual circumstance as provided in 4 AAC 06.723.

(b) The governing body's decision approving or denying the request for a waiver must be in writing and be delivered by certified mail. The governing body may deliver courtesy copies to the student or the student's parents or legal guardian by other methods. The governing body shall also provide a copy of the decision to the department. The governing body shall state the reason for its decision in the written decision. A denial of a waiver request may be appealed to the department as provided in 4 AAC 06.724. The governing body's written decision and notice must include a statement that the decision may be appealed to the department as provided in 4 AAC 06.724. (Eff. __/__/____, Register ____)

Authority: AS 14.03.075 AS 14.07.020 AS 14.07.030
 AS 14.07.060 AS 14.07.165

4 AAC 06 is amended by adding a new section to read:

4 AAC 06.722. Waiver for entering the public school system late. (a) For purposes of a waiver from participating in the college and career readiness assessments under 4 AAC 06.717, a student enters the public school system late if the student arrives in the state after the completion of all scheduled administrations in the student's year of intended graduation. A student who resides in the state but attends a private school or is home schooled as provided in

AS 14.30.010 and transfers to a public school after the completion of all scheduled administrations in the student's year of intended graduation may also be eligible for a waiver under this section.

(b) In addition to the requirements of 4 AAC 06.721, a student's request for a waiver under this section must be supported by documentation

(1) of enrollment from the school in which the student is currently enrolled including the student's initial enrollment date;

(2) of previous enrollment from the out-of-state school district from which the student transferred; the documentation must include enrollment date and exit date from the school district; and

(3) that verifies the date of the student's physical presence in this state before enrollment in any of the schools or school options in this state as provided in (a) of this section; documentation may include

(A) records or receipts of airlines, the Alaska Marine Highway system, or other carriers;

(B) hotel receipts; and

(C) affidavits or certifications by persons acquainted with or related to the student who have personal knowledge of the applicant's physical presence in the state. (Eff. __/__/____, Register ____)

Authority: AS 14.03.075 AS 14.07.030 AS 14.07.165
 AS 14.07.020 AS 14.07.060

4 AAC 06 is amended by adding a new section to read:

4 AAC 06.723. Rare or unusual circumstances. (a) For purposes of a waiver from participating in the college and career readiness assessments and except as provided in (b) - (d) of this section, a student has a rare or unusual circumstance meriting a waiver if

(1) a recourse or remedy other than a waiver does not exist to address the circumstance before the student's expected graduation date; and

(2) the circumstance was beyond the control of the student, the student's parents, and the school; for purposes of this paragraph, a circumstance beyond the control of the student, the student's parents, and the school is limited to

(A) the death of the student's parent if the death occurs within the last semester of the student's year of intended graduation;

(B) a medical condition that is a serious and sudden illness or physical injury that occurs in the last semester of the student's year of intended graduation and that prevents the student from taking a college and career readiness assessment; the request for a waiver must include an affidavit or certification from the student's treating licensed medical professional that the diagnosed medical condition prevented the student from taking a college and career readiness assessment and was beyond the control of the student and the student's parents; the following conditions are not rare or unusual circumstances under this section:

(i) pregnancy or childbirth, unless the affidavit or certification verifies that an emergency occurred that meets the requirements of this subparagraph;

(ii) treatable depression, stress, or stress-related conditions, unless the affidavit or certification verifies that an emergency occurred that meets the requirements of this subparagraph;

(iii) a condition caused by illegal alcohol or substance use;

(C) a disability arising in the student's secondary school enrollment and the disability arising too late to apply for a meaningful accommodation from the testing vendor; a waiver under this subparagraph must be consistent with the recommendations of the student's IEP or section 504 team; a request for a waiver under this subparagraph may not be granted unless the student's principal and the district's superintendent concur with the waiver request;

(D) a significant and uncorrectable system error; a waiver may not be granted under this subparagraph unless the student's

(i) completed examination materials from the last administration of the student's year of intended graduation are lost in transit between the school district and the testing vendor after the test has been administered; a request for a waiver under this sub-subparagraph must be supported by documentation from the district that verifies that the district mailed the examination materials to the department, and by documentation from the United States Postal Service, or from the carrier used to transport the examination materials, verifying that the examination materials are lost; or

(ii) school or district failed to administer the assessment on a scheduled administration date while the student was in the 12th grade. (Eff. ___/___/____. Register ___)

Authority: AS 14.03.075 AS 14.07.030 AS 14.07.165
 AS 14.07.020 AS 14.07.060

4 AAC 06 is amended by adding a new section to read:

4 AAC 06.724. Procedures for appeal from a denial of a waiver from the college and career readiness assessments. (a) A student or student's parent may appeal to the department the denial of a request for a waiver from participation in a college and career readiness assessment under 4 AAC 06.717. The appeal must be filed on a form provided by the governing body and prescribed by the department. The appeal form must be postmarked no later than 30 days after receipt of the notice of the denial.

(b) The person requesting the appeal must state the grounds for the appeal, including a brief summary of the nature of the original waiver request and a brief statement explaining how the governing body erred in its decision to deny the waiver.

(c) The appeal will be determined on the record and decided by a panel consisting of three members appointed by the commissioner. The commissioner may appoint to the panel a member of the board or an employee of the department. Depending on the number of appeals, the commissioner may designate more than one panel. A panel may deliberate in person, through correspondence, by telephone, audio, or video teleconference, or by other electronic means.

(d) Within 20 days after the filing of an appeal, the governing body shall forward to the department the entire record relating to the student's waiver request. The record must include

(1) the student's application for a waiver from participating in a college and career readiness assessment and any supporting documents supplied with the application;

(2) a copy of the governing body's graduation requirements; and

(3) a copy of the student's most current official transcript.

(e) The panel shall in a timely manner consider the appeal, including the record, and the appeal request and material that the person requesting the appeal submitted under (b) of this section.

(f) The panel shall submit a recommended decision to the commissioner after the panel has deliberated on the record presented. The recommended decision must be limited to whether the record supports the decision of the governing body and whether the governing body properly followed 4 AAC 06.721 - 4 AAC 06.723. In the recommended decision, the panel may only overturn the denial issued by the governing body if the record fails to support the denial by substantial evidence or the governing body erred in applying the requirements of 4 AAC 06.721 - 4 AAC 06.723. Failure of the governing body to comply with the requirements of this section is not by itself grounds for the panel in a recommended decision to overturn a denial issued by a governing body.

(g) The commissioner shall adopt all, part, or none of the panel's recommended decision, or remand the matter back to the panel, a different panel of the commissioner's designation, or the governing body with written instructions for further deliberations. The commissioner shall notify the student and the governing body by certified mail of the commissioner's decision on the appeal, or in the case of a remand, of the time schedule authorized for further deliberation and submission of a recommended decision if applicable.

(h) The commissioner's decision under (g) of this section is a final administrative decision of the department for purposes of appeal to the superior court under the Alaska Rules of Appellate Procedure. (Eff. __/__/____, Register ____)

Authority: AS 14.03.075 AS 14.07.030 AS 14.07.165

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